

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

ZAYA REED,

Plaintiff,

v.

SOLANO COUNTY JUSTICE CENTER,
et al.,

Defendants.

No. 2:23-cv-1101 KJM CSK P

ORDER TO SHOW CAUSE

Plaintiff, a county inmate proceeding pro se, filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. Plaintiff has not filed an opposition to defendants' motion for summary judgment.

Plaintiff's First Amended Complaint

This action proceeds on plaintiff's allegations that on December 21, 2022, while plaintiff was held in the Solano County Justice Center, Officers Prado, Bubar, Martinez, Flores, Whitney, and Sgt. Taylor, used excessive force on plaintiff.¹ (ECF No. 8 at 2.)

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¹ Plaintiff consented to the dismissal of defendants Solano County Justice Center, Well Path Medical, Lt. A. Hagen and Officer Ruiz, who were dismissed without prejudice on October 6, 2023. (ECF No. 12.)

1 Background

2 On June 14, 2024, defendants filed a motion for summary judgment. (ECF No. 18.)

3 Plaintiff did not file an opposition to the motion.

4 On July 23, 2024, plaintiff was granted an additional thirty days to file an opposition, and
5 was informed that (a) failure to oppose the motion may be deemed a waiver of any opposition to
6 the granting of the motion, (b) failure to comply with the Local Rules may result in the imposition
7 of any and all sanctions authorized by statute or Rule, and (c) under Rule 41(b) of the Federal
8 Rules of Civil Procedure, this case may be subject to involuntary dismissal based on plaintiff's
9 failure to prosecute or to comply with these rules or a court order. (ECF No. 21.) Plaintiff did
10 not file an opposition to the motion for summary judgment.

11 On September 5, 2024, the Court recommended that this action be dismissed based on
12 plaintiff's continued failure to oppose the motion for summary judgment and after evaluating the
13 factors under Ferdik v. Bonzelet, 963 F.2d 1258, 1260 (9th Cir. 1992). (ECF No. 22.)

14 On September 16, 2024, plaintiff filed objections to the findings and recommendations.
15 However, in her two page objections, plaintiff did not provide an opposition to the motion for
16 summary judgment or explain her failure to do so. Rather, plaintiff states, "I see there are merits
17 favored on this case based on general public policy," and complains she does not have time to
18 serve a copy of her response on all parties. (ECF No. 23 at 1.)

19 On two separate occasions, plaintiff has been provided the notice regarding the
20 requirements for opposing a motion for summary judgment pursuant to Rule 56 of the Federal
21 Rules of Civil Procedure. (ECF Nos. 19 at 2-3; 21 at 3) (both citing Woods v. Carey, 684 F.3d
22 934 (9th Cir. 2012); Rand v. Rowland, 154 F.3d 952, 957 (9th Cir. 1998)).

23 Discussion

24 Despite multiple opportunities, plaintiff has failed to file an opposition to defendants'
25 motion for summary judgment. Therefore, plaintiff is granted thirty days in which to show cause
26 why this case should not be dismissed for lack of prosecution based on plaintiff's failure to file an
27 opposition to the motion for summary judgment. Plaintiff's single statement that public policy
28 favors decisions on the merits is insufficient to constitute an opposition to the motion for

1 summary judgment as required under Rand, 154 F.2d at 957, and Rule 56 of the Federal Rules of
2 Civil Procedure. Plaintiff is cautioned that her failure to file an opposition will result in a
3 recommendation that this action be dismissed for lack of prosecution.

4 Accordingly, IT IS HEREBY ORDERED that within thirty days from the date of this
5 order, plaintiff shall show cause why this action should not be dismissed for lack of prosecution.
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7 Dated: October 18, 2024

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9 CHI SOO KIM
10 UNITED STATES MAGISTRATE JUDGE

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